

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

MAIL PROCESSING NETWORK
RATIONALIZATION SERVICE CHANGES, 2012

DOCKET No. N2012-1

**OPPOSITION OF THE UNITED STATES POSTAL SERVICE TO AMERICAN
POSTAL WORKERS UNION, AFL-CIO, MOTION TO COMPEL RESPONSES
TO APWU INTERROGATORIES (APWU/USPS-39 THROUGH 42)**
(April 20, 2012)

On April 6, 2012, the American Postal Workers Union (APWU), AFL-CIO,
submitted the following interrogatories to the United States Postal Service:

APWU/USPS-39. Provide a list of titles of postal personnel who are responsible for the procurement and management of HCR contracts and the number of people in those positions.

APWU/USPS-40. Provide the total number of annual hours associated with the network or transportation specialists and the network supply management personnel associated with oversight of the HCR contracts (in the continental U.S.). Under which LDCs are these hours counted? In which category or categories of personnel are these personnel shown in the National Payroll Summary?

APWU/USPS-41. Provide a list of all costs associated with HCR procurement.

APWU/USPS-42. Provide the total number of HCR contracts currently in effect and the total number of miles and hours of operation associated with those contracts (in the continental U.S.).¹

The Postal Service filed an objection on April 16, 2012, observing that the interrogatories seek no information relevant to the service changes at issue in this docket.² On April 18, APWU filed a motion to compel the Postal Service to

¹ Interrogatories of the American Postal Workers Union, AFL-CIO to United States Postal Service (APWU/USPS-26-45) (April 6, 2012).

² Objection of the United States Postal Service to American Postal Workers Union, AFL-CIO, Interrogatories (APWU/USPS-39 through 42) (April 16, 2012).

respond to these interrogatories, claiming that the interrogatories were reasonably calculated to lead to admissible evidence on the theory that the information would be relevant to the transportation cost and savings estimates submitted by the Postal Service in support of its request in this docket.³ Furthermore, APWU claims that such inquiry is relevant and necessary to determining whether the Postal Service's proposal is consistent with the policies of Title 39.

Discussion

APWU's interrogatories seek information that has no material relation to the Commission's task of advising whether the service changes proposed in this docket are consistent with the applicable policies of Title 39, U.S. Code. APWU claims that interrogatories APWU/USPS-39-42 seek "information relevant to the transportation costs and savings estimates submitted by the Postal Service in support of its network rationalization proposal." Motion to Compel at 1. APWU asserts that the information requested in these interrogatories will enable APWU to challenge the methodologies used by the Postal Service to project a savings of \$100 million as a result of converting PVS sites to HCRs under network rationalization. Id. at 2. To accomplish this goal, APWU seeks information that may demonstrate, inter alia, that the Postal Service has misallocated costs incurred to administer and procure HCR contracts in a manner that inflates the costs of PVS and that HCR procurement and administrative costs are not being used in determining HCR cost per mile. Motion to Compel at 2-3.

³ American Postal Workers Union, AFL-CIO, Motion to Compel Responses to APWU Interrogatories APWU/USPS-39-42 (April 18, 2012) (hereinafter, "Motion to Compel").

Assuming arguendo that the information sought would enable APWU to develop rebuttal testimony that will challenge the projected savings (see Motion to Compel at 3), the Postal Service observes that the purpose of this docket is obtain an advisory opinion regarding whether cost savings are an appropriate motivation for the pursuit of service changes under section 3661 of Title 39, U.S. Code. Such an opinion can be issued in the absence of such minutiae as:

- a list of the job titles and the number of postal personnel involved in transportation procurement and management;
- the number of workhours they devote to domestic transportation;
- a list of costs associated with their work activity; and/or
- the total number of highway contracts currently in effect, and the total number of highway miles and driving time associated with those contracts.

Before the Postal Service can be expected to undertake the burden of compiling the requested information, there must be some demonstration that the requested information relates in some way to advisory role of the Commission under section 3661, as opposed to APWU's more obvious collective bargaining interest in maximizing the use of PVS transportation.

Whether there are 99 EAS-22 or 88 EAS-24 employees involved in transportation management has no bearing on the Commission's advisory role under section 3661. Nor does the cumulative percentage of workhours postal transportation managers devote to domestic surface transportation, or a list of costs generated by their work activity,⁴ or the cumulative number of contracts they administer. Such trivia might inform a postal blog that sought to advocate in

⁴ Presumably, such items as office supplies, computer hardware and technical support and travel.

favor of PVS transportation, but it is not apparent how such information helps the Commission in any material way as it assesses whether the service changes under review in this docket are being pursued for purposes and in a manner consistent with applicable policies of Title 39.

Assume hypothetically that APWU were capable of using the information obtained through these interrogatories to develop rebuttal testimony that projects that the Postal Service, by using more HCR transportation than APWU deems desirable, will incur more administrative costs and realize less savings than the \$100 million that was projected by USPS witness Bradley.⁵ Such rebuttal testimony still would have no bearing on the question of whether the Postal Service may, consistent with the applicable policies of title 39, change its service standards *for the purpose of capturing savings* as the result of those service changes.⁶

APWU implies that the service standard changes proposed in this case should be “balanced” against “the resultant savings and other policies in the Act.” Apparently, APWU believes that the Commission’s role in this docket is to reach a conclusion regarding how much the Postal Service will actually save as the result of network rationalization and, on that basis, opine on whether the proposed service changes are justified in light of those savings. The implied belief that there is some threshold savings that must be achieved in order to legitimize the proposed service changes finds no support anywhere in Title 39

⁵ The reference to \$100 million in savings from converting PVS to HCR service is found at Tr. 5/1812.

⁶ APWU’s offer to revise interrogatory APWU/USPS-39 does not cure this fundamental defect.

and would be unworkable in practice, as it would place the Commission in the untenable position of having to determine the amount of savings that would be necessary to justify a corresponding change in service. Congress could not have intended this result when it enacted section 3661.

APWU asserts that “postal costs are themselves policies to be reviewed under Section 3661” and cites to 39 U.S.C. § 3691(c)(6) in support of that proposition. However, section 3691(c) simply requires that the Postal Service “take into account,” among other factors, “(6) the current and projected future cost of serving Postal Service customers.” The record in this docket is replete with evidence demonstrating that the Postal Service has taken current and projected future costs “into account” in its Request (albeit not in a manner that APWU would apparently prefer) and the rebuttal testimony that APWU proposes will do nothing to prove otherwise. Section 101(a) of Title 39, U.S. Code is even less relevant to the instant discovery dispute. There is no allegation that the Postal Service is “apportioning costs” in a manner that would “impair the overall value of [postal service] to the people” nor does APWU contend that its interrogatories are designed to explore whether the Postal Service’s Request is inconsistent with this policy. Moreover, if either of these statutory provisions was interpreted in a manner that would permit any participant to scrutinize any component of the Postal Service’s cost projections in a section 3661 case, as APWU’s claim appears to imply, discovery in such proceedings would essentially be limitless because any factor that would have a bearing on Postal Service costs would be fair game for discovery. Congress could not have intended this

result when it enacted sections 3691 or 101(a).

Accordingly, the Motion to Compel should be denied.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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